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October 1, 2020

VIA ECF

The Honorable Denise L. Cote
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 1910
New York, NY 10007

Re: *FTC, et al. v. Vyera Pharmaceuticals, LLC, et al.*, Case No. 1:20-cv-706 (DLC)

Dear Judge Cote:

On behalf of Martin Shkreli, Vyera Pharmaceuticals, LLC, and Phoenixus AG (collectively, the “Moving Defendants”), I write to respectfully move the Court to permit the Moving Defendants to re-file the public versions of their respective answers to plaintiffs’ first amended complaint. *See* ECF Nos. 253 and 258. In Paragraph 46 of their respective answers, the Moving Defendants inadvertently left unredacted Mr. Shkreli’s percentage ownership stake in Phoenixus AG. *Id.* The Court has already granted plaintiffs’ joint motion to file under seal this same information in Paragraph 46 of the first amended complaint. *See* ECF No. 91.

The Moving Defendants seek to redact only the specific ownership percentages, which constitute competitively and commercially sensitive information, as Phoenixus is a privately-held company. *See Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978) (emphasizing that despite the presumption of access to judicial records, courts may deny access to records that are “sources of business information that might harm a litigant’s competitive standing”); *In re AMR Corp.*, No. 11-15463 (SHL), 2013 Bankr. LEXIS 5785, at *728 (Bankr. S.D.N.Y. Oct. 21, 2013) (allowing redaction of “the number of shares of AMR Stock that the Substantial Equityholder beneficially owns”). Accordingly, the Moving Defendants’ request is appropriate and is narrowly-tailored to protect only competitively and commercially sensitive information.

In addition, in order to ensure that the re-filed answers are deemed to be filed as of the original filing date, namely September 15, 2020, the Moving Defendants respectfully request that the Court order the Clerk’s Office to substitute the Moving Defendants’ redacted answers as follows: (1) substitute Mr. Shkreli’s newly-redacted answer (attached hereto as Exhibit A) in place of Mr. Shkreli’s currently-filed answer (ECF No. 258) to plaintiffs’ first amended complaint; and (2) substitute Vyera Pharmaceuticals, LLC’s and Phoenixus AG’s (the “Company”) newly-redacted

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answer (attached hereto as Exhibit B) in place of the Company's currently-filed answer (ECF No. 253) to plaintiffs' first amended complaint.

The Moving Defendants have contacted counsel for plaintiffs, who have stated that plaintiffs do not object to this motion.

Respectfully submitted,

/s/ Christopher H. Casey
Christopher H. Casey

CHC